

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CARLOS A. POWELL	)	
	)	Civil Action No. 2: 13-cv-00498
Petitioner,	)	
	)	United States District Judge
	)	Mark R. Hornak
v.	)	
	)	United States Magistrate Judge
	)	Cynthia Reed Eddy
ORLANDO HARPER, et al.,	)	
	)	
Respondents.	)	

**MEMORANDUM ORDER**

Carlos A. Powell (hereinafter referred to as “Petitioner”) initiated this action on April 8, 2013, by filing a *pro se* Motion for Leave to Proceed in forma pauperis (ECF No. 1.) The motion was granted on May 23, 2013 (ECF No. 4) and the Petition for Writ of Habeas Corpus was filed (ECF No. 5). At the time Plaintiff filed his Petition, he was in custody at the Allegheny County Jail.

On November 1, 2013, the Magistrate Judge filed a Report and Recommendation (ECF No. 14) recommending that the Petition be summarily dismissed for failure to satisfy the “in custody” requirement under 28 U.S.C. § 2254(a), that a certificate of appealability be denied, and that this case be closed. The parties were advised that written objections to the Report and Recommendation were to be filed by November 18, 2013. A copy of the Report and Recommendation was mailed to Petitioner at his listed address of record: the Allegheny County Jail, 950 2nd Avenue, Pittsburgh, PA 15219. On November 21, 2013, the envelope containing the Report and Recommendation was returned to the Court, unopened, with the handwritten notation “Gone” on the envelope. See ECF No. 15. To date, no objections have been filed.

After *de novo* review of the pleadings and documents in this case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 27<sup>th</sup> day of November, 2013;

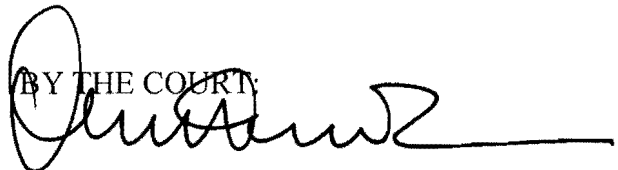
**IT IS HEREBY ORDERED** that the Petition for Writ of Habeas Corpus filed by Petitioner Carlos A. Powell (ECF No. 5) be summarily **DISMISSED** for lack of jurisdiction.

**IT IS FURTHER ORDERED** that the Report and Recommendation (ECF. No. 14) dated November 1, 2013, is **ADOPTED** as the Opinion of the Court.

**IT IS FURTHER ORDERED** that a Certificate of Appealability is **DENIED**.

**IT IS FURTHER ORDERED** that the Clerk of Court mark this case **CLOSED**.

**AND IT IS FURTHER ORDERED** that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, the parties have thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

BY THE COURT:  


Mark R. Hornak  
United States District Judge

cc: CARLOS A. POWELL  
100043  
950 2nd Ave.  
Pittsburgh, PA 15219

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